

REMARKS

Claims 1-25, 50-75, and 80-82 are pending in the present application. Claims 1, 4-6, 11, 13-15, 17-19, 22-24, 50, 52-54, 56, 58-62, 64-69, 71, 73 and 75 have been amended. Claims 80-82 are newly added. No new matter is involved. Claims 26-50 and 76-79 have been canceled without prejudice or disclaimer of the subject matter therein or equivalents thereof. Applicant respectfully requests reconsideration of the subject application in light of the amendments and remarks below. This Amendment is submitted in response to the Office Action dated February 21, 2008.

I. STATUS OF THE CLAIMS

In the Office Action, claim 26 and 31 are being objected to under 37 CFR 1.75 as being a substantial duplicate of claim 1. Claim 42 is being objected to under 37 CFR 1.75 as being a substantial duplicate of claim 18.

Claims 1-15, 21-23, 27-32, 33-39, 45-47, 50-54, 56-63, 66-73 and 76-79 are rejected under 35 U.S.C. § 103(a) (hereinafter, “Section 103(a)”) as being unpatentable over Kwan (U.S. Pub. US 2002/0147658, hereinafter, “Kwan”) in view of Glikman (U.S. Pub. 2001/0037254, hereinafter, “Glikman”).

Claims 16 and 40 are rejected under Section 103(a) as being unpatentable over Kwan in view of Official Notice.

Claims 17-20, 41-44, 64-65 and 74 are rejected under Section 103(a) as being unpatentable over Kwan in view of Glikman and further in view of Plush et al. (U.S. Pat. No. 6,173,171, hereinafter, “Plush”).

Claims 24-25, 48-49, 68, and 75 are rejected under Section 103(a) as being unpatentable over Kwan in view of Glikman and further in view of Official Notice.

Applicant respectfully traverses all rejections and requests reconsideration for all of the pending claims in light of the amendments and for at least the reasons discussed below.

A. DOUBLE PATENTING REJECTION

Claims 26, 31 and 42 were objected to under 37 CFR 1.75 as being duplicate claims. Claims 26-49 have been canceled herein without prejudice of disclaimer of the subject matter therein or equivalents thereof. Accordingly, the objections to these claims are believed moot in light of the amendment. Applicant respectfully requests withdrawal of the rejection of the claims.

B. REJECTION OF CLAIMS UNDER SECTION 103(a), KWAN IN VIEW OF GLIKMAN

Claims 1-15, 21-23, 27-32, 33-39, 45-47, 50-54, 56-63, 66-73 and 76-79 are rejected under Section 103(a) as being unpatentable over Kwan in view of Glikman. Claims 26-49 and 76-79 have been canceled. Accordingly discussion is reserved for the remaining claims. Claims 1, 6, 18, 50, 54, 64, 69 and 71 are the independent claim upon which all remaining claims depend directly or indirectly upon. Applicant respectfully traverses Examiner's rejections and submits that these claims are allowable over the applied references for at least the following reasons.

In rejecting a claim under Section 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091-231 U.S.P.Q. 375 (Fed. Cir. 1986). Third the prior art references must teach or suggest all of the claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claims 6, 18, 54, 64 and 71 as amended recite in part "both the customer and recipient each having at least one account with the operator and recorded with the billing system..." Claims 1, and 69 are amended to recite in part "both the customer and the payment's facilitator each have at least one account with the operator and recorded with the billing system..." Similarly claim 50 has been amended to recite in part the "to debit... the customer's at least one account with the

operator” and “to credit...an account with the operator...the account being owned by a third party”. Amendments have been made to clarify embodiments of the present invention in that (1) the customer account and recipient account are with the same operator and its billing system or 2) that the customer account and payment facilitator/third party account are with the same operator and its billing system. Support for the amendments are found throughout the specification, for instance p. 1, lines 9-11, “facilitate the transfer of credit from the account of a first mobile phone user to the account of a second mobile phone user using the communications network of a carrier common to both users”; p. 10, lines 10-11, “the communications network and billing system are owned and/or operated by a carrier” and p. 13, lines 17, 22-24, “a charge to the first customer’s account with the carrier...is then made...Once the first customer’s account has been appropriately charged, the payments facilitator then operates to credit its own account with the carrier.”

With regard to claims 1 and 69, “both the customer and the payments facilitator each have at least one account with the operator and recorded therewith”. In claim 50, the method comprises “instructing the billing system to credit the amount to be paid to the recipient to an account with the operator and recorded with the billing system, the account being owned by a third party.” Neither Kwan nor Glikman provide for each and every claim limitation as provided in these amended claims. Applicant respectfully notes, that contrary to Examiner’s contention, in par. 69, Glikman does not disclose that the both the customer and payments facilitator/third party each have an account with the same operator and neither does Glikman disclose that the payments facilitator/third party *account with the operator is credited*. Rather at most, Glikman states “billing the mobile account associated with the mobile device”, and Fig. 13 only shows a block diagram with block 920 representing “start billing process”. However, there is still no teaching or suggesting of crediting a payments facilitator/third party account with the operator, neither is there disclosure of operating to make payment to the recipient.

Likewise in Kwan, there is no teaching or suggestion of crediting a separate payments facilitator/third party account with the operator. Kwan in all the cited paragraphs, at most provide for debiting and crediting accounts with two *different* operators. In Kwan, par. 29, “payment processor 40...instructs Carrier 1 to deduct the amount from the customer’s prepaid

account in real time and at the same time instruct Carrier 2 where the merchant's telecommunication sub account is held to credit the account with the same amount deducted from customer's account at carrier 1." As described, there is no teaching that the customer and the payments facilitator have an account with the same operator and billing system. As shown, there are two different carriers (operators). Moreover, there is no teaching of the payment thereafter paid *to the recipient* by the payment facilitator/third party. Accordingly, Kwan in combination with Glikman fail to provide for all the recited elements of claims 1, 50 and 69 as required for a *prima facie* case of obviousness.

With regard to claims 6, 18, 54, 64 and 71, similarly as discussed above, neither Kwan nor Glikman disclose that "both the customer and recipient each having at least one account with the operator". Kwan discusses user accounts on separate carriers and Glikman makes no mention of a recipient account with the same operator. Therefore, not all the limitations of claims 6, 28, 54, 64 and 71 are provided by the combination of the references cited and are accordingly believed patentable.

Specifically with regard to claims 6 and 54, neither does Kwan nor Glikman teach "**the payments facilitator communicates with the recipient to specify an amount to be transferred**" or "**communicating with a recipient to specify the amount to be paid to the recipient**". Applicant respectfully requests Examiner to point out where these required limitations are found in Glikman as the cited pars. 41, 47, 48 and claim 1 in Glikman do teach or suggest these limitations. In Glikman, it is the *customer*, not the recipient (vendor) that specifies the amount to be paid. See par. 67 in Glikman, "the mobile user also is presented with a second message asking the mobile user for permission to charge the purchase amount to the mobile account associated with the mobile device." However, this does not provide for what claims 6 and 54 recite, in that the "*the recipient*", NOT the customer, specifies an amount to be transferred. Accordingly, Glikman in no manner teaches or suggests the limitations of Applicant's claims.

Moreover, claims 18 and 64, are believed allowable for the additional limitations they each recite. These independent claims are discussed since claims 21-23 and 65-68 depend directly or indirectly from them. Claims 18 and 64 recite in part "instruction to the billing system in the form of a command representative of the customer having initiated a

communication using the first communication device having a tariff rate closest to the amount to be paid to the recipient and operates to issue an instruction to the billing system in the form of a command representative of the recipient having made a payment to the operator equal to the amount to be paid to the recipient". In addition to what has been discussed above, neither Kwan nor Glikman teach or suggest these limitations and therefore do not result in a *prima facie* case of obviousness.

For at least the foregoing reasons, Applicant respectfully submits that amended claims 1, 6, 50, 54, 69 and 71 are patentable over the combination of Kwan and Glikman. Since the dependent claims include all the limitations of their base claims, the respective dependent claims are believed patentable for at least the same reasons as their independent claims. Accordingly, Applicant respectfully requests withdrawal of the rejection of the claims 1-15, 21-23, 50-54, 56-63, 66-73 under Section 103(a).

C. REJECTION OF CLAIMS 16 AND 40 UNDER SECTION 103(a)

Claims 16 and 40 are rejected under Section 103(a) as being unpatentable over Kwan in view of Official Notice. Claim 40 has been canceled and therefore rejection of claim 40 is now moot. Discussion is in reference to claim 16. Applicant respectfully traverses Examiner's rejections and submits that claim 16 is allowable over the applied references for at least the following reasons.

Claim 16 depends from base claim 6 and includes all its limitations. Therefore, claim 16 is allowable over Kwan and in view of the Official Notice since neither teach or suggest that "both the customer and the recipient *each* having at least one account with the operator and recorded with the billing system"; "the payments facilitator communicates with the recipient to specify an amount to be transferred". For all the reasons provided above with regard to claim 6, Applicant respectfully requests withdrawal of the rejection of claim 16 under Section 103(a).

D. REJECTION OF CLAIMS 17-20, 41-44, 64-65 and 74 UNDER SECTION 103(a)

Claims 17-20, 41-44, 64-65 and 74 are rejected under Section 103(a) as being unpatentable over Kwan in view of Glikman and further in view of Plush. Claims 41-44 have been canceled. Accordingly discussion is reserved for the remaining claims. Applicant respectfully traverses

Examiner's rejections and submits that these claims are allowable over the applied references for at least the following reasons.

Claim 17 depends from either claims 1 or 6. Claim 74 depends from either 69 or 71. Claims 1, 6, 69 and 71 have been discussed above with regard to Kwan and Glikman. These reference fail to teach or suggest each and every limitation of the claims. Neither does Plush provide for the deficiencies of Kwan and Glikman. In particular, Plush does not provide for "both the customer and the payment's facilitator each have at least one account with the operator and recorded with the billing system..."; "both the customer and recipient each having at least one account with the operator"; and with regard to claim 6, "the payments facilitator communicates with the recipient to specify an amount to be transferred". Rather, Plush discloses "*a single shared account*" where charges are added to the single account's detail record. Accordingly, not only does Plush fail to provide for the deficiencies found in Kwan and Glikman, neither is their any motivation to combine Plush, which discusses a single account, with the other references.

Plush has been used for disclosing retrieving "standard tariff charges for that subscription type from the tariff store, and thereby to calculate the charge for the entire call..." (col. 6, lines 9-13). However, this still does not provide for all the limitations of claim 17, and moreover, it fails to provide for the "payments facilitator operates to instruct the billing system to debit the amount to be paid" in the "form of a command representative of the customer having initiated a communication using the first communication device having a tariff rate closest to the amount to be paid to the recipient." Applicant submits that a typical charge for call usage based on tariff rate is not what is being claimed. The claims recite a system and method in which the customer is debited in "*the form of a command **representative** of the customer having initiated a communication using the first communication device...*".

With regard to claims 18-20 and 64-65, in addition to all the required limitations which have not been shown with respect to independent claims 18 and 64, there is still no teaching or suggestion by Kwan in view of Glikman and in further view of Plush which of the payments facilitator "issues an instruction to the billing system in the form of a command representative of the customer having initiated a communication using the first communication device having a tariff rate closest to the amount to be paid to the recipient and operates to issue an instruction to the billing system in the form of a command representative

of the recipient having made a payment to the operator equal to the amount to be paid to the recipient". These commands representative of the customer having initiated a communication and the recipient having made a payment are nowhere disclosed in the cited references.

For at least the foregoing reasons, Applicant respectfully submits that not all the required limitations of amended independent claims 1, 6, 18, 64, 69 and 71 are disclosed over the combination of Kwan, Glikman and Plush. Since the dependent claims include all the limitations of their base claims, the respective dependent claims are believed patentable for at least the same reasons as their independent claims. Accordingly, Applicant respectfully requests withdrawal of the rejection of the claims 17-20, 64-65 and 74 under Section 103(a).

E. REJECTION OF CLAIMS 24-25, 48-49, 68, and 75 UNDER SECTION 103(a)

Claims 24-25, 48-49, 68, and 75 are rejected under Section 103(a) as being unpatentable over Kwan in view of Glikman and further in view of Official Notice. Claims 48-49 have been canceled. Accordingly discussion is reserved for the remaining claims. Applicant respectfully traverses Examiner's rejections and submits that these claims are allowable over the applied references for at least the following reasons.

These rejected claims depend directly or indirectly from independent claims 1, 6, 18, 50, 54, 64 or 71. These claims have been discussed above with regard to Kwan and Glikman. The references fail to teach or suggest each and every limitation of the claims. Neither does Plush provide for the deficiencies of Kwan and Glikman. In particular, Plush does not provide for "both the customer and the payment's facilitator each have at least one account with the operator and recorded with the billing system..."; "both the customer and recipient each having at least one account with the operator"; and with regard to claims 6 and 54, "the payments facilitator communicates with the recipient to specify an amount to be transferred" or "communicating with a recipient to specify the amount to be paid to the recipient".

For all the reasons provided above with regard to the independent claims, Applicant respectfully requests withdrawal of the rejection of claims 24-25, 68 and 75 under Section 103(a).

If, for any reason, the Examiner believes that the claims of this application are not yet in full condition for allowance, applicant respectfully requests the Examiner's constructive assistance and suggestions pursuant to the spirit of MPEP § 2173.02 and § 707.07(j). The Examiner is authorized to make any needed minor corrections or changes.

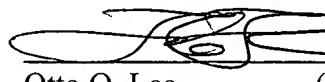
II. CONCLUSION

The above-discussed remarks are believed to place the present Application in condition for allowance. Should the Examiner have any questions regarding the above amendments, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,

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Contact No.: 408-286-8933



Otto O. Lee (Reg. No.: 37,871)
Juneko Jackson (Reg. No.: 48,870)
Intellectual Property Law Group LLP
Attorneys for Applicant